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CBS Jury Hears Doubt on Ability Of Vietcong's Self-Defense Forces

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A witness at the Westmoreland-CBS libel trial said yesterday that the Vietcong's self-defense forces were "little more than a motley crew" and recalled for the jury a patrol he had joined in the rice paddies of South Vietnam's Mekong River delta in October 1967.

The account by Col. John F. Stewart, an intelligence officer who served in Vietnam in 1967 and 1968, provided a vivid contrast to much of the heavily statistical testimony at the trial. Throughout five weeks, the proceedings in Federal District Court in Manhattan have focused on figures relating to enemy strength and the scope of North Vietnamese infiltration into South Vietnam in the months prior to the Tet offensive in January 1968.

In the 1982 CBS Reports documentary that prompted Gen. William C. Westmoreland to sue the network for \$120 million, CBS contended that the general's decision in 1967 to drop the Vietcong's self-defense forces from the official listing of enemy military strength was a "tactic" to help obscure the reality of a mighty foe.

George Allen, a Central Intelligence Agency official, maintained on the broadcast that the self-defense forces were a "fundamental" threat to American troops, and the importance of these so-called "home guard" units has thus emerged as a key issue in the trial.

Contradictory Testimony

Under cross-examination yesterday by David Boies, a lawyer for CBS, Colonel Stewart described the self-defense forces as an "insignificant" collection of boys, old men and, sometimes, women, who normally ran from American troops. Contradicting some witnesses who preceded him, Colonel Stewart denied the self-defense forces regularly laid mines and booby traps.

When Mr. Boies asked the witness whether he had ever seen these forces in combat, Colonel Stewart told of accompanying a unit of American troops on a "riverine" patrol in October 1967.

"It was late afternoon and the sun was going down," he said, "and the patrol left the boats to conduct a clearing operation in a series of little huts or hamlets in a rice paddy."

In the distance, Colonel Stewart said, were "some people in conical hats" and, at one point, a bullet whizzed over the heads of the patrol. The unit moved into the hamlet and questioned the residents, and Colonel Stewart said the officer in charge of the patrol told him the shot had probably been fired by a member of the self-defense forces because the area was "VC controlled." Only one weapon, Colonel Stewart said, was found — and it was on the ground.

Judge Interrupts Lawyer

Mr. Boies asked the witness who else in Vietnam had discussed with him the capabilities of the self-defense forces. When the colonel responded with one of the prolonged answers that characterized his testimony, the lawyer broke in. "Your Honor," he said to Judge Pierre N. Leval, "What I'm trying to do . . ."

"I don't want to hear what you're trying to do," the judge shot back. "When you ask a question, you have to sit through the answer."

Colonel Stewart, who was not interviewed on the CBS program, completed his testimony yesterday and was followed to the stand by George Carver, who was chief of Vietnamese affairs for the Central Intelligence Agency during the late 1960's. Mr. Carver's testimony will continue today.

Mr. Boies and Colonel Stewart, who is still on active duty in the Army, sparred yesterday with the same frequency as they had on Monday.

When Mr. Boies asked the witness whether he knew the percentage of self-defense forces who were armed, the colonel said he did not.

Q. Do you have an approximation?

A. I don't recall. You'll get me to say an approximate percentage, Mr. Boies, and then hoist me on my own petard. The answer is I don't recall.

Mr. Boies tried to demonstrate that, by Colonel Stewart's figures and others compiled after the colonel left Vietnam in April 1968, the number of enemy troops in the Tet offensive that began on Jan. 30, 1968 had to be substantially larger than reported by General Westmoreland's command.

Spar on Figures

The CBS documentary that is the subject of the suit — "The Uncounted Enemy: A Vietnam Deception" — contained statements that the full scope of North Vietnamese infiltration into South Vietnam before the Tet attack, like the size of the enemy generally, had been concealed by General Westmoreland's command.

Colonel Stewart said that at the start of the offensive, North Vietnamese and Vietcong regular forces in South Vietnam numbered about 130,000, with 100,000 of them committed to the Tet attack. By Feb. 10, he said, 85,000 had been killed or removed from battle by wounds. That left 45,000 regular troops.

But Mr. Boies noted that, according to figures supplied to President Johnson months later, another 40,000 enemy troops were killed between Feb. 11 and April 6, and another 56,000 wounded — making a combined total of casualties much greater than the number Colonel Stewart said were in South Vietnam.

If Colonel Stewart was right, Mr. Boies told the jury in an interim summation, it raised the question of "who in the hell were we fighting? And the answer is two-fold: there were a lot more enemy out there than the official reports of MACV" — General Westmoreland's command — indicated and "there was a lot more infiltration than the official reports indicated."

Dan M. Burt, General Westmoreland's lawyer, countered by saying that the later casualties involved North Vietnamese troops who entered South Vietnam after the initial waves of the offensive.

Colonel Stewart said many of the casualty figures were "either exaggerated or wrong or both." The colonel told Mr. Boies that he ought to get away from his concentration on numbers and focus on "what really mattered — how well the American and South Vietnamese armies fought."

"That," he said, "I can tell you about."